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Anabel Ton Art Unit 2875

COMPANY:

USPTO

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1-571-273-8300

FROM:

Kevin D. McCarthy

RE:

10/672, 168 [0-03-205 (16483/US/03)]

DATE:

April 30, 2007

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Typed Name: Kevin D. McCarthy
Date: April 30, 2007

0-03-205 (16483/US/03)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Goychrach
Serial no.: 10/672,168
Filed: September 26, 2003
Title: MULTI-SHAPE AND MULTI-COLOR CHEMILUMINESCENT DEVICE
Examiner: Anabel Ton
Art Unit: 2875

Amendment and Response

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

This response is in reply to the office action mailed on April 11, 2007.

In the office action, the examiner reported "claims 1-40 are pending in this application." We respectfully traverse that statement because the preliminary amendment submitted on September 26, 2003 presented claims 1 to 42. For that reason we will respond to the office action as though claims 1 to 42 were examined.

In the office action, the examiner required an election of either invention I: "claims 1-33 [and 41-42], drawn to a chemiluminescent device" or invention II: "claims 34-40, drawn to a process for the preparation of a chemiluminescent device." Claims 41-42 depend on claim 22, which the examiner admits is in invention I, and therefore claims 41-42, in our opinion, belong to the invention I as well.

Applicant elects invention I: claims 1-33 and 41-42 with traverse. Why traverse? Applicant amended claim 34 to depend on claim 1. By that amendment the examiner is unable to assert the inventions I and II are distinct since claim 34 now depends on claim 1 and through the theory of claim differentiation, claim 1 includes the examiner's proposed process.

It is respectfully submitted that these claims are in condition for allowance and such allowance is respectfully requested.

Date: April 30, 2007

Respectfully submitted,

By:

Kevin D. McCarthy
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